

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

JAMES F. WYNN,

Debtor.

Case No. BT 15-01621

Chapter 7

Previous Chapter 13

ORDER FINDING DEBTOR, JAMES F. WYNN, IN CONTEMPT OF COURT

PRESENT: HONORABLE JAMES W. BOYD
United States Bankruptcy Judge

This court entered an *Order Granting Trustee's Motion to Compel Rule 2004 Examination of Debtor, James F. Wynn and for the Production of Documents* (Dkt. No. 172) (the "Order for 2004 Examination".) The Order for 2004 Examination was served on the Debtor by the trustee's counsel on December 8, 2017. Pursuant to the Order for 2004 Examination, Debtor, James F. Wynn, was ordered to provide to the Trustee a privilege log in compliance with FED. R. CIV. P. 26(g) by December 31, 2017, and appear for a FED. R. BANKR. P. 2004 examination on January 10, 2018. On January 11, 2018, Trustee filed a *Motion for Order to Show Cause Why Debtor, James F. Wynn, Should Not be Held in Contempt of Court for his Failure to Comply with this Court's Order Granting Trustee's Motion to Compel Rule 2004 Examination of Debtor, James F. Wynn and for the Production of Documents entered on December 7, 2017* (Dkt. No. 178) ("Trustee's Contempt Motion"). The Court entered an *Order Scheduling Hearing* pursuant to the Trustee's Contempt Motion on January 17, 2018, for February 7, 2018. The Order Scheduling Hearing was served on the Debtor by the Court on January 19, 2018.

A hearing took place in the bankruptcy courtroom, in Traverse City, Michigan on February 7, 2018. Appearing were Wallace H. Tuttle, Esq., attorney for Debtor, and Kevin M. Smith, Esq., attorney for Kelly M. Hagan, Chapter 7 Trustee. Debtor, James F. Wynn, failed to appear. This Court finds (1) service of the Order for 2004 Examination and Order Scheduling Hearing were properly executed on the Debtor and (2), the Debtor failed to comply with the Order for 2004 Examination and failed to appear on February 7, 2018, to explain why he did not comply with the Order for 2004 Examination, and this Court being otherwise fully advised in the premises;

IT IS ORDERED THAT:

1. The Debtor, **James F. Wynn**, is found in civil contempt for violation of the Order for 2004 Examination.

2. The Debtor, James F. Wynn, shall have until **February 28, 2018** to purge himself of this contempt. James F. Wynn may purge his contempt by complying with the Order for 2004 Examination by (a) providing a privilege log in compliance with FED. R. CIV. P. 26(g) containing the information and/or documents listed in this court's Order (at Dkt. No. 172, ¶¶ 1-10) and (b) appearing before the Trustee for a FED. R. BANKR. P. 2004 examination, unless the parties mutually agree to a date and time beyond February 28, 2018.
3. A further hearing shall be held on **Thursday, March 8, 2018 at 10:00 a.m.** at the United States Bankruptcy Court, 3249 Racquet Club Drive, Traverse City, Michigan, to determine whether Debtor has purged himself of his contempt. The Debtor, James F. Wynn, shall appear at said hearing and show that he has purged his contempt of the Order for 2004 Examination, or show cause why he has not purged his contempt of the Order for 2004 Examination and why this Court should not impose further measures to enforce its Order for 2004 Examination. **Debtor's failure to purge himself of this contempt** may result in this Court on March 8, 2018, entering an order that: (a) imposes a monetary fine of \$25/day until such time as the Debtor complies with this order, and (b) reimburses actual costs to the Trustee and Trustee's counsel incurred by them in bringing the Trustee's Contempt Motion. **Further, the Court may order the United States Marshal to apprehend the Debtor and bring him before the Court for examination.**

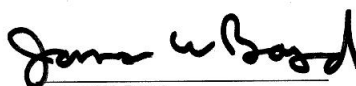
IT IS FURTHER ORDERED that the Clerk shall serve a copy of this Order pursuant to FED. R. BANKR. P. 9022 and LBR 5005-4 upon the Debtor; Kevin M. Smith, Esq., attorney for Kelly M. Hagan, Chapter 7 Trustee; and the Office of the United States Trustee.

END OF ORDER

IT IS SO ORDERED.

Dated February 14, 2018




James W. Boyd
United States Bankruptcy Judge